

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-303-C - ORDER NO. 2007-42(A)

MAY 29, 2009

IN RE: Application of PNG Telecommunications,	)	AMENDED ORDER
Inc. d/b/a PowerNet Global Communications	)	GRANTING EXPEDITED
d/b/a CrossConnect for a Certificate of	)	REVIEW AND
Public Convenience and Necessity to Provide	)	APPROVING
Facilities Based Local Exchange	)	CERTIFICATE OF PC&N
Telecommunications Services and for	)	TO PROVIDE LOCAL
Flexible Regulation of its Local Exchange	)	SERVICES AND
Services and Alternative Regulation of its	)	APPROVING FLEXIBLE
Interexchange Services	)	REGULATION AND
	)	ALTERNATIVE
	)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the necessity to amend Commission Order No. 2007-42 issued in the present docket. Order No. 2007-42 was issued January 19, 2007, wherein the Commission granted a Certificate of Public Convenience and Necessity in the name of PNG **Communications**¹, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect (PNG) to provide local telecommunications services in South Carolina. However, the Commission was advised by letter received May 19, 2009, from PNG that the company's name as stated in Order No. 2007-42 ("PNG **Communications**, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect") was in error, and PNG requests that the Commission amend Order No. 2007-42 to reflect the company's correct name of PNG **Telecommunications**, Inc. d/b/a PowerNet Global Communications d/b/a

¹ This and subsequent instances of **bold** text are added by the Commission for emphasis.

CrossConnect. In the company's original application for a Certificate of Public Convenience and Necessity filed October 3, 2006, and subsequent filings made to the Commission by PNG, the company's name is incorrectly given and consequentially stated as such in Commission Order No. 2007-42. To correct the company's now-discovered error, the present Order is being issued to reflect the appropriate name of the company, PNG **Telecommunications**, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect, in the caption and body of Order No. 2007-42. Other than the correction in the name and an amended order number (Order No. 2007-42(A), all other language of Order No. 2007-42 remains verbatim and follows.

This matter comes before the Public Service Commission of South Carolina ("Commission") upon the Application filed by PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect (PNG or the Company) seeking a Certificate of Public Convenience and Necessity ("Certificate of PC&N") to provide local exchange to customers located throughout the State of South Carolina and requesting flexible regulation of those local exchange service offerings in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C, and alternative regulation of its interexchange services. PNG's Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2005) and the rules and regulations of the Commission. Order No. 96-675 authorized PNG to offer intrastate, interexchange telecommunications services to customers throughout the State. On May 23, 2002, the Commission issued Order No. 2002-393 which approved an amendment to the company's authority to allow it to conduct business in South Carolina

as PowerNet Global Communications. On July 22, 2005, the Commission issued Order No. 2005-402 in which PNG was granted the authority to use CrossConnect as a trade name in South Carolina.

By letter, the Commission's Docketing Department instructed PNG to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. PNG complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. Subsequently, the South Carolina Telephone Coalition (SCTC) filed a Petition to Intervene. However, SCTC and PNG reached a Stipulation, which is attached hereto as Order Exhibit 1.

The Office of Regulatory Staff (ORS) requested that PNG make certain revisions to its proposed tariff which PNG agreed to make, and which are attached hereto as Order Exhibit 2. ORS has indicated that it does not oppose the application and has consented to the Motion for Expedited Review herein. No other Protests or Petitions to Intervene have been filed.

On January 2, 2007, PNG filed a Motion for Expedited Review by which PNG seeks to have its Application reviewed and approved without the necessity of a hearing. Along with the Motion for Expedited Review, PNG filed the verified testimony of Dennis Packer, General Counsel and Secretary of the Company. Since PNG already possesses some authority from this Commission and has continued to keep in contact with this

Commission over the last several years, the Commission finds good cause to waive the hearing in this matter and to proceed with disposition of PNG's Application on the record consisting of the Application and Mr. Packer's verified testimony.

By its Application and the verified testimony of Mr. Packer, PNG is requesting authority to provide competitive local exchange services and access services.

According to Mr. Packer, PNG possesses sufficient technical and managerial resources to provide the services for which it requests authority. As to financial resources, Mr. Packer testified that PNG is financially sound, and is, in fact, cash flow positive.

Mr. Packer offers that the public interest will be served by the granting of PNG's request for a Certificate of PC&N to provide local telecommunications service and exchange services. According to Mr. Packer, PNG's entry into the local market will enhance competition in the State of South Carolina by offering additional service offerings and high quality service to South Carolina's consumers. The record also shows PNG's position that PNG's entry into South Carolina's local service market will also provide an efficient use of existing telecommunications resources. Mr. Packer also committed that PNG will meet all service standards that the Commission may adopt and that the provision of service by PNG will not adversely impact the availability of affordable local exchange service in South Carolina. Further, Mr. Packer stated that PNG will actively participate in the support of universally available telecommunications services at affordable rates.

Also, Mr. Packer reiterated PNG's request that PNG's local service offerings, if approved, be afforded flexible regulation in accordance with the principles and procedures set forth in Order No. 98-165 in Docket No. 97-467-C. Specifically, PNG's request is that the Commission adopt for PNG a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. In addition and also in compliance with Order No. 98-165, PNG requests that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further order of the Commission, and that any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

Further, PNG through Mr. Packer requests that all of the Company's long distance business services be regulated pursuant to the procedures described and set out in Docket No. 95-661-C and as modified by Order No. 2001-997-C in Docket No. 2000-407-C. It is the Applicant's intent by this request to have these services regulated in the same manner as this Commission has permitted for by AT&T of the Southern States. Specifically, the Company requests: (1) removal of maximum rate tariff requirements for its business services, consumer card, operator service, and future private line and customer network-type offerings; (2) that tariff filings for these uncapped offerings are presumed valid upon filing. If the Commission institutes an investigation of a particular filing within seven days, the tariff filing will be suspended until further order of the Commission; and (3) any relaxation in the reporting requirements that may be adopted

for AT&T shall apply to PNG also. In addition, PNG recognizes the modification to alternative regulation found in Order No. 2001-997.

Lastly, PNG seeks waiver of the use of the Uniform System of Accounts (USOA) for its books, and of Commission Regulations 26 S.C. Code Ann. Regs. 103-610 (1976) and 103-631 (1976 and Supp. 2006).

After full consideration of the applicable law, PNG's Application, and the verified testimony of Mr. Packer, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. PNG is presently a provider of interexchange telecommunications services within South Carolina and desires to expand its service offerings to include local exchange telecommunications services which PNG will provide in South Carolina.

2. The Commission finds that PNG has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1) (Supp. 2006).

3. The Commission finds that PNG's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2006).

5. The Commission finds that PNG will participate in the support of universally available telephone service at affordable rates to the extent that PNG may be

required to do so by the Commission. S.C. Code Ann. Section 58-9-280 (B)(4) (Supp. 2006).

6. The Commission finds that PNG will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2) (Supp. 2006).

7. The Commission finds that approval of PNG's Application to provide local exchange services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

8. The Commission finds that the provision of local exchange service by PNG "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2006).

9. The Commission finds that the issuance of the authority to provide local exchange services as requested by PNG, and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

CONCLUSIONS OF LAW

1. The Commission concludes that PNG possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in its Application.

2. The Commission concludes that PNG's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that PNG will participate in the support of universally available telephone service at affordable rates to the extent that PNG may be required to do so by the Commission.

4. The Commission concludes that PNG will provide services which will meet the service standards of the Commission.

5. The Commission concludes that approval of PNG's Application to provide local exchange telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

6. The Commission concludes that the provision of local exchange service by PNG does not, and will not otherwise adversely impact the public interest.

7. The Commission concludes that the issuance of the authority to provide local telecommunications services as requested by PNG, and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

8. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to PNG to provide competitive intrastate local exchange telecommunications services, including local exchange, exchange access service, and ancillary services, to customers located within the State of South Carolina, as limited by the Stipulation with the South Carolina Telephone Coalition. The terms of that Stipulation are approved. Further, the tariff revisions which are the subject of the agreement between the Company and ORS are also approved.

9. The Commission concludes that PNG's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. The Commission has previously granted this "flexible regulation" to competitive local exchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires for the Commission to allow this flexible regulation to those carriers which request it. Specifically under flexible regulation, the Commission adopts for PNG's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, PNG's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. The Commission concludes that PNG's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive

marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing subject to a request to investigate being filed within seven days of any tariff filing. If a particular tariff filing request to investigate is made within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. We conclude that the request for waiver of 26 S.C. Code Ann. Regs. 103-610 and 103-631 should be granted as strict compliance with the regulation would potentially cause undue hardship on the Company. We also grant exemption from the policies requiring the use of the Uniform System of Accounts.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to PNG to provide competitive intrastate local exchange telecommunications services, including local exchange, exchange access service, and ancillary services, to customers located within the State of South Carolina, as limited by the terms of the Stipulation between the Company and ORS.

2. PNG's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically under flexible regulation, the Commission adopts for PNG's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, PNG's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers tariff filing will then be suspended until further Order of the Commission.

3. The Commission concludes that PNG's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in

Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this “alternative regulation” to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider.

Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to PNG also.

4. PNG shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming and comporting with South Carolina law in all matters, and with the revisions which were the subject of the agreement between the Company and ORS.

5. PNG shall, in compliance with the Commission's regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, PNG shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

PNG shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. PNG shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at www.psc.state.sc.us/forms.asp to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

6. PNG shall conduct its business in compliance with the Commission's decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

7. With regard to the origination and termination of toll calls within the same LATA, Managed Services shall comply with the terms of Order No. 93-462, Order

Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Managed Services shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. PNG is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

9. PNG shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, PNG shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission's website at www.psc.state.sc.us/forms.asp or at ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." PNG shall file the annual report form with the Commission by **April 1st** of each year.

Commission gross receipts forms are due to be filed with the Commission no later than **August 31st** of each year. The appropriate form for remitting information for gross

receipts is entitled “Gross Receipts Form” and may be found at the ORS website at www.regulatorystaff.sc.gov.

Additionally, pursuant to the Commission’s regulations, the Company shall file a “CLEC Service Quality Quarterly Report” with the Commission. The proper form for this report may be found on the Commission’s website at www.psc.state.sc.us/forms.asp. These “CLEC Service Quality Quarterly Reports” are required to be filed within 30 days of the end of each calendar quarter.

10. Annually, PNG shall file the “South Carolina Universal Service Fund Contribution Worksheet” as required by the Commission. Such filing is presently due by **August 15th**, regardless of whether a company reports its operations on a calendar year or fiscal year. This worksheet may found at the ORS website at www.regulatorystaff.sc.gov.

11. In its provision of telecommunications services to the public, PNG shall utilize its own facilities, or if PNG utilizes services or facilities, through resale, lease, or other means, of other companies, PNG shall utilize the facilities or services of only companies authorized to provide telecommunications services in South Carolina by this Commission.

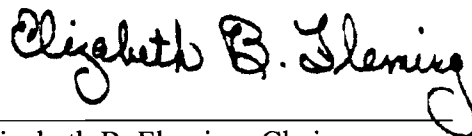
12. PNG is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911” system or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs

Managed Services to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, PNG shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

13. 26 S.C. Code Ann. Regs. 103-610 and 103-631 are hereby waived, as are the provisions related to keeping Company books by the USOA.

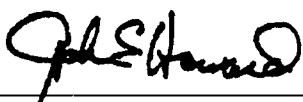
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman

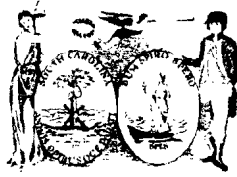
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Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.